

III. REMARKS

A. STATUS OF THE CLAIMS

Claims 1-37 were pending in this application, and claims 1-16 and 32-37 were rejected. Claims 17-31 are withdrawn from consideration. New claims 38-48 have been added to more particularly point out the invention. Claim 7 has been cancelled.

In order to expedite the issuance of a patent, and to more particularly point out and distinctly claim aspects of the invention, Applicants have, without acquiescing to the validity the claim rejections, amended the claims and have added new claims as follows. Entry of the foregoing Amendment and Response is respectfully in order and requested.

Claims 1, 9, 14 and 35 have been amended to more particularly claim the invention. Support for these amendments are found at least in the specification as originally filed in paras [0036 to 0037] and [0053], and FIGS. 1-3 and 8.

Support for new claims 38-40 can be found at least in original claims 11-13, respectively.

Support for new claim 41 can be found at least in the specification, as originally filed, in paras [0036 to 0037], and in originally claim 1.

Support for new claim 42 can be found at least in the specification, as originally filed, in paras [0036 to 0037], [0040], and FIGS. 14 and 15.

Support for new claims 43-48 can be found at least in original claims 15, 16, 11, 3, 1, and 4 respectively.

Applicants assert that *no new matter* has been added to the claims by these amendments.

Accordingly, upon the entry of the present amendment and response, claims 1-6 and 8-48 will be pending.

B. OBVIOUSNESS-TYPE DOUBLE PATENTING REJECTION

Claims 1-16, 32 and 33 are provisionally rejected on the grounds of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 1-4 and 6-15 of copending U.S. Application Serial No. 10/602,426.

While in no way admitting that the present claims are obvious over claims 1-16, 32 and 33 of copending 10/602,426 as alleged in the Office Action, Applicants respectfully contend that

upon allowance of the claims in the aforementioned patent application, Applicants will consider submitting a terminal disclaimer in compliance with 37 C.F.R. §1.321, if appropriate, which will obviate these rejections.

C. 35 U.S.C. §102 REJECTIONS

1. Claims 1-8, 11-13, and 32-34 are rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Pat. No. 6,159,368 to *Moring et al.* (hereinafter "*Moring*"). Applicants respectfully traverse.

2. Claims 1-3, 5-8, 11-16, 32 and 33 are rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Pat. No. 6,054,100 to *Stanchfield et al.* (hereinafter "*Stanchfield*"). Applicants respectfully traverse.

3. Claims 1-9, 11-13, and 32-34 are rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Pat. No. 6,592,826 to *Bloecker et al.* (hereinafter "*Bloecker*"). Applicants respectfully traverse.

THE ANTICIPATION STANDARD

Under § 102, anticipation requires that all the claim elements appear in a single prior art document. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP § 2131 citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2D 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the...claim." MPEP § 2131 citing *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2D 1913, 1920 (Fed. Cir. 1989). For a prior art reference to anticipate a claimed invention under 35 U.S.C. §102, the prior art reference must teach each and every limitation of the claimed invention. See, *Lewmar Marine v. Barient* 827 F.2d 744, 3 USPQ2d 1766 (Fed. Cir. 1987)

Claim 1, as amended, is directed in part to a:

...manifold assembly comprising a collar having a substantially vertical side wall including a bottom periphery region forming a skirt, a base having a peripheral portion, and a first seal positioned between the collar and

the base wherein the skirt sealingly positions over the peripheral portion of the base....a second sample processing device stacked below said first sample processing device to form an integral stacked unit preventing relative movement between said first and second devices...

Applicants respectfully contend that neither *Moring*, nor *Stanchfield*, nor *Bloecker* teach each and every element of independent claim 1 and its dependencies. For example, neither *Moring*, nor *Stanchfield*, nor *Bloecker* teach a skirt sealingly positioned over the peripheral portion of the base. Additionally, neither *Moring*, nor *Stanchfield*, nor *Bloecker* teach a second sample processing device stacked below a first sample processing device to form an integral stacked unit preventing relative movement between the first and second devices. Accordingly, Applicants respectfully request that this rejection be reconsidered and withdrawn.

Claim 14, as amended, is directed in part to a:

...manifold assembly comprising a collar having a substantially lateral side wall, a base in sealing engagement with the collar, the base comprising an outer peripheral flange and a side wall which together form a peripheral groove, a first gasket positioned between the base and the collar wherein a portion of the first gasket contacts a slot formed in the collar...

Applicants respectfully contend that *Stanchfield* fails to teach each and every element of independent claim 14 and its dependencies. For example, *Stanchfield* fails to teach a base comprising an outer peripheral flange and a side wall which together form a peripheral groove. Additionally, *Stanchfield* fails to teach a portion of the first gasket contacts a slot formed in the collar. Accordingly, Applicants respectfully request that this rejection be reconsidered and withdrawn.

D. 35 U.S.C. §103 REJECTIONS

1. Claims 10 and 35 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 6,159,368 *Moring et al.* (hereinafter, "*Moring*"). Applicants respectfully traverse the rejections.

2. Claims 35-37 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over No. 6,592,826 to *Bloecker et al.* (hereinafter "*Bloecker*"). Applicants respectfully traverse the rejections

THE *PRIMA FACIE* CASE REQUIREMENT

The Patent and Trademark Office (PTO) bears the burden of initially establishing a *prima facie* case of obviousness. MPEP §2142. "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." MPEP 706.02(j) citing *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). "First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine what the reference teaches. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references combined) must teach or suggest all the claim limitations." Furthermore, in a recent case, *KSR International Co. v. Teleflex Inc. et al.* (127 S. Ct. 1727, 1731 (2007)), the Supreme Court acknowledged the importance of identifying "a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does" in an obviousness determination.

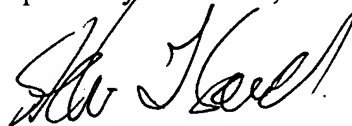
THE *PRIMA FACIE* CASE REQUIREMENT HAS NOT BEEN SATISFIED

Applicants respectfully contend that the Office Action has not met its burden in establishing a *prima facie* case of obviousness because the references as combined fail to teach or suggest all the claim limitations. As discussed *supra* *Moring* fails to teach and/or suggest all of the claim limitations. Additionally, as discussed *supra* *Bloecker* fails to teach and/or suggest all of the claim limitations. Applicants contend that the Office Action has failed to cure the deficiencies of either *Moring* or *Bloecker*. Accordingly, claims 10 and 35-37 are not *prima facie* obvious, and Applicants respectfully request this rejection be reconsidered and withdrawn.

IV. CONCLUSION

Applicants believe that the above response is a complete response to the present Office Action, and in view of the foregoing remarks, respectfully request the reconsideration and withdrawal of the rejections, and the timely allowance of the pending claims. If however the Examiner believes that some requirement has been missed or not completely answered, the Examiner is invited to contact Applicants' attorney at the number below. Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account.

Respectfully submitted,

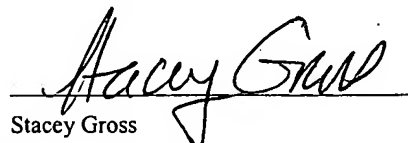


Stephen J. Sand
Attorney for Applicant
Reg. No. 34,716

September 29, 2008
Millipore Corporation
290 Concord Road
Billerica, Massachusetts 01821
Tel.: (978) 715-1733
Fax: (978) 715-1382

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

The undersigned hereby certifies that this document is being placed in the United States mail with first-class postage attached, addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on September 29, 2008.


Stacey Gross